

### REMARKS

Claims 1-10 are pending, and claim 1 is the only independent claim. Claim 1 is rejected as anticipated by *Ullevig* (U.S. Patent No. 3,102,667). Claims 5-8 are rejected as obvious from *Ullevig* in view of *Galletta* (U.S. Patent No. 2,606,694). Claim 2 is rejected as obvious from *Ullevig* in view of *Weinstein* (U.S. Patent No. 2,812,886). Claims 3, 4, 9, and 10 are indicated to be allowable if put in independent form.

#### Claim 1 is Patentable over the Cited Reference

Claim 1 is rejected as anticipated under 35 U.S.C. § 102(b) in view of *Ullevig*. To anticipate a claim, the reference must teach every element of the claim. MPEP § 2131. Applicant respectfully submits that a critical portion of claim 1 is neither disclosed nor suggested by *Ullevig*.

The spout **10** in FIG. 5 of *Ullevig* is not “protruding forward from said upper rim” **48** as presently claimed. Instead, the spout **10** in FIG. 5 of *Ullevig* is protruding forward from the skirt **46** to which it is “fitted onto or attached” (see *Ullevig*, column 3, line 60). This is a critical distinction between *Ullevig* and the present claimed invention. The spout **2** of the present claimed invention protrudes from the upper rim **4** of the present claimed invention, and most definitely does not protrude forward from any part of the inner rear flange panel **3** of the present claimed invention.

The Office Action is silent about the present claimed feature of “protruding forward from said upper rim”. This is a critical feature of the present invention.

As can be seen in FIG. 1 of the present application. The spout **2** does not protrude from the inner rear flange panel **3**, and instead protrudes from the upper rim **4** that joins the front flange to the rear flange. New claim 11 is now added to emphasize this point; new claim 11 is fully supported by the specification as originally filed, and introduces no new matter.

Applicant further observes that the spout proper **44** of *Ullevig* is intended to be made of wax paper or the like, for use with a paint can or similar container. The pouring spout **44** of *Ullevig* is therefore not made of an elastomer material as presently claimed, and instead is

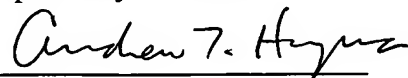
made of a more inexpensive material that can be disposed of when the paint can is empty. The skirt of *Ullevig* is made of molded pulp (see column 3, line 39), which again is an inexpensive disposable material unlike the present claimed elastomer material. Molded pulp will not “flexibly distort” to match the radius of curvature of a liquid container, as presently claimed. Therefore, Applicant respectfully submits that this is another critical element of present claim 1 that is neither disclosed nor suggested by the *Ullevig* reference. The Office Action did not mention this “flexibly distorted” element of present claim 1.

Because the other claims depend from claim 1, Applicant respectfully submits that they should be allowed as well. There is no need to consider the *Weinstein* and *Galletta* references, because the *Ullevig* reference does not disclose or suggest all elements of present claim 1.

### Conclusion

It is respectfully believed that the rejections of the non-final Office Action have been shown to be inapplicable. Therefore, it is respectfully asserted that the pending claims are now allowable. Applicants request that the Examiner please contact Applicant’s attorney by telephone if that might help to resolve issues or expedite allowance of pending claims.

Respectfully submitted,



Andrew T. Hyman  
Attorney for the Applicant  
Registration No. 45858

WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
755 Main Street, PO Box 224  
Monroe CT 06468  
(203) 261-1234